



Sen. Jacqueline Y. Collins

Filed: 4/11/2005

09400SB2030sam001

LRB094 11526 BDD 44800 a

1 AMENDMENT TO SENATE BILL 2030

2 AMENDMENT NO. _____. Amend Senate Bill 2030 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Video
5 Game Excise Tax Act.

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Department of Revenue.

8 "Video game" means an object or device that stores recorded
9 data or instructions, receives data or instructions generated
10 by a person who uses it, and, by processing the data or
11 instructions, creates an interactive game capable of being
12 played, viewed, or experienced on or through a computer, gaming
13 system, console, or other technology.

14 Section 10. The Video Game Excise Tax Fund. The Video Game
15 Excise Tax Fund is created as a special fund in the State
16 treasury. From appropriations to the Department of Human
17 Services from the Fund, the Department of Human Services must
18 make grants to public or private entities in Illinois for the
19 purpose of funding youth outreach programs.

20 Moneys received for the purposes of this Section,
21 including, without limitation, excise tax receipts and gifts,
22 grants, and awards from any public or private entity, must be
23 deposited into the Fund. Any interest earned on moneys in the

1 Fund must be deposited into the Fund.

2 Section 15. Excise tax imposed.

3 (a) Beginning January 1, 2006, each person selling video
4 games at retail in this State shall collect from retail
5 customers a tax of \$0.25 for each video game that is sold and
6 delivered in this State. The seller must pay the tax to the
7 Department for deposit into the Video Game Excise Tax Fund.
8 This tax is imposed in addition to any other tax on the sale of
9 video games in this State.

10 (b) The tax collected under this Section must be stated as
11 a distinct item separate and apart from the selling price of
12 the video game. The tax is not be includable in the gross
13 receipts of the retailer subject to the Retailer's Occupation
14 Tax Act, the Use Tax Act, or any locally imposed retailer's
15 occupation tax. The tax, and any such tax collected by a
16 retailer, shall constitute a debt owed by the retailer to the
17 State.

18 Section 20. Tax returns by retailer.

19 (a) Each video game retailer maintaining a place of
20 business in this State must make a return to the Department on
21 a quarter-annual basis, with the return for January, February,
22 and March of a given year being due by April 30 of that year;
23 with the return for April, May, and June of a given year being
24 due by July 31 of that year; with the return for July, August,
25 and September of a given year being due by October 31 of that
26 year; and with the return for October, November, and December
27 of a given year being due by January 31 of the following year.
28 Each return made to the Department must state:

29 (1) the name of the retailer;

30 (2) the address of the retailer's principal place of
31 business and the address of the principal place of business
32 (if that is a different address) from which the retailer

1 engages in the business of making retail sales of video
2 games;

3 (3) the total number of video games sold at retail for
4 the preceding calendar quarter;

5 (4) the amount of tax due; and

6 (5) any other reasonable information that the
7 Department requires.

8 (b) Notwithstanding any other provision of this Act
9 concerning the time within which a retailer may file his or her
10 return, in the case of any retailer who ceases to engage in the
11 retail sale of video games, the retailer must file a final
12 return under this Act with the Department not more than one
13 month after discontinuing that business.

14 Section 25. Application of Retailers' Occupation Tax
15 provisions. All the provisions of Sections 4, 5, 5a, 5b, 5c,
16 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, and 11 of
17 the Retailers' Occupation Tax Act that are not inconsistent
18 with this Act apply, as far as practicable, to the tax imposed
19 by Section 15 of this Act to the same extent as if those
20 provisions were included in this Act. References in the
21 incorporated Sections of the Retailers' Occupation Tax Act to
22 retailers, to sellers, or to persons engaged in the business of
23 selling tangible personal property mean retailers of video
24 games.

25 Section 30. Hearing; notice. The Department may adopt and
26 enforce any reasonable rules relating to the administration and
27 enforcement of the tax imposed by Section 15 of this Act that
28 are expedient.

29 Whenever the Department is required to provide notice to a
30 retailer under this Act, the notice may be personally served or
31 given by United States certified or registered mail, addressed
32 to the retailer or taxpayer concerned at his or her last known

1 address. Proof of this mailing is sufficient for the purposes
2 of this Act. In the case of a notice of hearing, the notice
3 must be mailed not less than 7 days prior to the date fixed for
4 the hearing.

5 All hearings provided by the Department under this Act with
6 respect to or concerning a taxpayer having his or her principal
7 place of business in this State other than in Cook County shall
8 be held at the Department's office nearest to the location of
9 the taxpayer's principal place of business. If the taxpayer has
10 his or her principal place of business in Cook County, the
11 hearing shall be held in Cook County. If the taxpayer does not
12 have his or her principal place of business in this State, the
13 hearing shall be held in Sangamon County.

14 Whenever any proceeding provided by this Act has been begun
15 by the Department or by a person subject thereto and that
16 person subsequently dies or becomes a person under legal
17 disability before the proceeding has been concluded, the legal
18 representative of the deceased person or person under legal
19 disability shall notify the Department of the death or legal
20 disability. The legal representative, as such, shall then be
21 substituted by the Department in place of and for the person.
22 Within 20 days after notice to the legal representative of the
23 time fixed for that purpose, the proceeding may proceed in all
24 respects and with like effect as though the person had not died
25 or become a person under legal disability.

26 Section 35. Administrative procedures. The Illinois
27 Administrative Procedure Act is hereby expressly adopted and
28 applies to all administrative rules and procedures of the
29 Department under this Act, except that: (1) paragraph (b) of
30 Section 4 of the Illinois Administrative Procedure Act does not
31 apply to final orders, decisions, and opinions of the
32 Department; (2) subparagraph (a)(2) of Section 4 of the
33 Illinois Administrative Procedure Act does not apply to forms

1 established by the Department for use under this Act; and (3)
2 the provisions of Section 13 of the Illinois Administrative
3 Procedure Act regarding proposals for decision are excluded and
4 not applicable to the Department under this Act.

5 Section 40. Review under Administrative Review Law.

6 (a) The circuit court of any county in which a hearing is
7 held has the power to review all final administrative decisions
8 of the Department in administering the tax imposed under
9 Section 15 of this Act. If, however, the administrative
10 proceeding that is to be reviewed judicially is a claim for
11 refund proceeding commenced under this Act and Section 2a of
12 the State Officers and Employees Money Disposition Act, the
13 circuit court having jurisdiction over the action for judicial
14 review under this Section and under the Administrative Review
15 Law shall be the same court that entered the temporary
16 restraining order or preliminary injunction that is provided
17 for in that Section 2a, and that enables the claim proceeding
18 to be processed and disposed of as a claim for refund
19 proceeding other than as a claim for credit proceeding.

20 (b) The provisions of the Administrative Review Law, and
21 the rules adopted pursuant thereto, apply to and govern all
22 proceedings for the judicial review of final administrative
23 decisions of the Department under this Act. The term
24 "administrative decision" is defined as in Section 3-101 of the
25 Code of Civil Procedure.

26 (c) Service of summons issued in any action to review a
27 final administrative decision upon the Director or Assistant
28 Director of Revenue shall be service upon the Department. The
29 Department shall certify the record of its proceedings if the
30 taxpayer pays to it the sum of \$0.75 per page of testimony
31 taken before the Department and \$0.25 per page of all other
32 matters contained in the record, except that these charges may
33 be waived if the Department is satisfied that the aggrieved

1 party cannot afford to pay these charges.

2 Section 45. Penalty. Any retailer who fails to make a
3 return, or who makes a fraudulent return, or who willfully
4 violates any rule of the Department for the administration and
5 enforcement of the tax imposed by Section 15 of this Act is
6 guilty of a Class 4 felony.

7 Section 50. Severability. The provisions of this Act are
8 severable under Section 1.31 of the Statute on Statutes.

9 Section 900. The State Finance Act is amended by changing
10 Section 8h and adding Section 5.640 as follows:

11 (30 ILCS 105/5.640 new)

12 Sec. 5.640. The Video Game Excise Tax Fund.

13 (30 ILCS 105/8h)

14 Sec. 8h. Transfers to General Revenue Fund.

15 (a) Except as provided in subsection (b), notwithstanding
16 any other State law to the contrary, the Governor may, through
17 June 30, 2007, from time to time direct the State Treasurer and
18 Comptroller to transfer a specified sum from any fund held by
19 the State Treasurer to the General Revenue Fund in order to
20 help defray the State's operating costs for the fiscal year.
21 The total transfer under this Section from any fund in any
22 fiscal year shall not exceed the lesser of (i) 8% of the
23 revenues to be deposited into the fund during that fiscal year
24 or (ii) an amount that leaves a remaining fund balance of 25%
25 of the July 1 fund balance of that fiscal year. In fiscal year
26 2005 only, prior to calculating the July 1, 2004 final
27 balances, the Governor may calculate and direct the State
28 Treasurer with the Comptroller to transfer additional amounts
29 determined by applying the formula authorized in Public Act

1 93-839 to the funds balances on July 1, 2003. No transfer may
2 be made from a fund under this Section that would have the
3 effect of reducing the available balance in the fund to an
4 amount less than the amount remaining unexpended and unreserved
5 from the total appropriation from that fund estimated to be
6 expended for that fiscal year. This Section does not apply to
7 any funds that are restricted by federal law to a specific use,
8 to any funds in the Motor Fuel Tax Fund, the Hospital Provider
9 Fund, the Medicaid Provider Relief Fund, the Video Game Excise
10 Tax Fund, or the Reviewing Court Alternative Dispute Resolution
11 Fund, or to any funds to which subsection (f) of Section 20-40
12 of the Nursing and Advanced Practice Nursing Act applies.
13 Notwithstanding any other provision of this Section, for fiscal
14 year 2004, the total transfer under this Section from the Road
15 Fund or the State Construction Account Fund shall not exceed
16 the lesser of (i) 5% of the revenues to be deposited into the
17 fund during that fiscal year or (ii) 25% of the beginning
18 balance in the fund. For fiscal year 2005 through fiscal year
19 2007, no amounts may be transferred under this Section from the
20 Road Fund, the State Construction Account Fund, the Criminal
21 Justice Information Systems Trust Fund, the Wireless Service
22 Emergency Fund, or the Mandatory Arbitration Fund.

23 In determining the available balance in a fund, the
24 Governor may include receipts, transfers into the fund, and
25 other resources anticipated to be available in the fund in that
26 fiscal year.

27 The State Treasurer and Comptroller shall transfer the
28 amounts designated under this Section as soon as may be
29 practicable after receiving the direction to transfer from the
30 Governor.

31 (b) This Section does not apply to any fund established
32 under the Community Senior Services and Resources Act.

33 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,
34 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;

1 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.
2 1-15-05.)

3 Section 999. Effective date. This Act takes effect July 1,
4 2005.".